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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,482	10/21/2003	Albert Kiechle	6888-111-US	3844

7590 04/28/2005

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EXAMINER
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HAN, JASON

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 04/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 10/690,482	Applicant(s) KIECHLE ET AL.	
	Examiner Jason M. Han	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 March 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17 is/are allowed.
- 6) ☒ Claim(s) 1-5 and 15-21 is/are rejected.
- 7) ☒ Claim(s) 6-14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to Claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

### ***Double Patenting***

2. Applicant is advised that should Claim 1 be found allowable, Claim 15 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Neer et al. (U.S. Patent 4088881).
4. With regards to Claim 1, Neer discloses a light cove including:
  - Top [Figures 2, 5: (22, 40)] and bottom [Figures 2, 4: (35)] spaced-apart fasteners each separately secured to the wall for enabling relative positioning of said fasteners to provide a maximum ability to establish any desired

positioning therebetween and for accommodating any unevenness that may exist in the wall;

- A panel section having a wall end [Figures 2, 4: (95)] and an end [Figures 2, 4: (60)] extending outwardly from the wall end;
- An attachment [Figures 2, 4: (70, 72)] securing the wall end to the bottom fastener; and
- A support [Figures 2, 3: (75)] secured to the top fastener and to the panel section outwardly-extending end for securing the panel section to the top fastener.

5. With regards to Claim 2, Neer discloses the attachment [Figures 2, 4: (70, 72)] including a hinge attachment for enabling the panel section to be pivoted with respect to the bottom fastener in the absence of when the panel section is secured to the top fastener [Figure 3].

6. With regards to Claim 3, Neer discloses hinge attachment [Figure 3] including an upwardly extending articulation member [Figures 2, 4: (72)] coupled to the bottom fastener, and a downwardly extending articulation member [Figures 2, 4: (70)] coupled to the panel section wall end and extending into the upwardly extending articulation.

7. With regards to Claim 4, Neer discloses the hinge attachment [Figure 3] including a pair of U-shaped channels [Figures 2, 4: (70, 72)] respectively formed on the bottom fastener and secured to the panel section wall end, and in which the upwardly and downwardly extending articulation members are members respectively of U-shaped channels, whereby said U-shaped channels further provide a light seal.

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8. With regards to Claim 5, Neer discloses an overhang [Figures 2, 4: (105)] positioned adjacent to the U-shaped channels to provide an additional light seal.
9. Claims 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Neer et al. (U.S. Patent 4088881).
10. With regards to Claim 15, Neer discloses a light cove including:
  - Top [Figures 2, 5: (22, 40)] and bottom [Figures 2, 4: (35)] spaced-apart fasteners each separately disposed for individual attachment in enabling relative positioning of said fasteners to provide a maximum ability to establish any desired positioning therebetween and for accommodating any unevenness that may exist in the wall;
  - A panel section having a wall end [Figures 2, 4: (95)] and an end [Figures 2, 4: (60)] extending outwardly from the wall end;
  - An attachment [Figures 2, 4: (70, 72)] securing the wall end to the bottom fastener; and
  - A support [Figures 2, 3: (75)] secured to the top fastener and to the panel section outwardly-extending end for securing the panel section to the top fastener.
11. With regards to Claim 16, Neer discloses the attachment including a hinge attachment [Figure 3] for enabling the panel section to be pivoted with respect to the bottom fastener in the absence of when the panel section is secured to the top fastener and further including a light fixture [Figure 3: (18)] having at least one light bulb adapted to be secured to the wall and positionable between the top and bottom fasteners,

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whereby the light fixture is accessible for servicing and replacement of the light bulb when the panel section is pivoted with respect to the bottom fastener in the absence of when the panel section is secured to the top fastener.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neer et al. (U.S. Patent 4088881).

13. With regards to Claim 18, Neer discloses a light cove providing:

- A top [Figures 2, 5: (22, 40)] fastener to a wall [Figure 5: (42)];
- A bottom fastener [Figures 2, 4: (35)] independent of the top fastener for enabling relative positioning of said fasteners to provide a maximum ability to establish any desired positioning therebetween and for accommodating any unevenness that may exist in the wall; and
- A light fixture [Figure 2: (18)] disposed between the top and bottom fasteners and secured to the wall.

Neer does not specifically teach the method of installing the abovementioned components, however, it has been held obvious that one ordinarily skilled in the art

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could provide a method of installation/use given that all structural limitations were addressed by the prior art.

14. With regards to Claim 19, Neer teaches providing a hinge attachment [Figure 3: approximate (65, 94)] such that hinging of a panel section [Figure 3: (60)] at a first of its ends to one of the top and the bottom fasteners and, at a second of its ends, releasably securing the panel section to the other of the top and the bottom fasteners, for enabling the panel section to be pivoted about its first end and, thereby, for enabling access to the light fixture.

15. With regards to Claim 20, Neer teaches providing an interleaved connection [Figure 4: (70, 72)] between the first panel section end and the one of the top and the bottom fasteners to providing the hinging therebetween.

16. With regards to Claim 21, Neer teaches providing an adjustable connection [Figures 2-3: (75); Column 4, Lines 40-43] between the second panel end and the other of the top and bottom fasteners.

***Allowable Subject Matter***

17. Claims 6-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

18. Claim 17 is allowed.

19. The following is an examiner's statement of reasons for allowance:

20. With regards to Dependent Claim 6, applicant has cited a support including a pair of straps telescoped together to provide adjustability thereto and a device for securing

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the straps together. If rewritten in independent form including limitations of the base claim, the claim would be allowable since the prior art fails to teach or suggest the specific combination. All subsequent dependent claims are allowed.

21. With regards to Independent Claim 17, applicant has narrowly defined a light cove wherein two separate fasteners are separately attached to a wall, which the prior art fails to teach or suggest in combination with a support secured to the top fastener and a panel section via a pair of longitudinally extending straps telescoped together to provide adjustability to said support.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any



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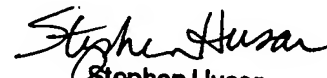
extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Han whose telephone number is (571) 272-2207. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMH (4/22/2005)

  
Stephen Husar  
Primary Examiner